

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

LOCAL 8027, AFT-NEW HAMPSHIRE, et al.,	*	
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	*	
Plaintiffs,	*	
v.	*	Case No. 1:21-cv-01063-JL
	*	
FRANK EDELBLUT, in his Official Capacity as Commissioner of the DEPARTMENT OF EDUCATION, et al.,	*	
	*	
	*	
	*	
Defendants.	*	
	*	

**MOTION TO EXTEND DEADLINE TO ANSWER
OR OTHERWISE RESPOND TO THE COMPLAINT**

Defendants Frank Edelblut, in his official capacity as Commissioner of the Department of Education, Christian Kim, in his official capacity as Chair of the New Hampshire Commission on Human Rights, and John Formella, in his official capacity as the Attorney General of the State of New Hampshire, by and through their counsel, the Office of the Attorney General, hereby move to extend their deadline to answer or otherwise respond to the Complaint up to and including February 18, 2022. In support of this motion, the Defendants state as follows:

1. The Plaintiffs in this action “challenge[] the constitutionality and legality of recently enacted New Hampshire statutory provisions 297 and 298 of 2021 House Bill 2 . . . codified at [RSA 354-A:29 through RSA 354-A:34 and RSA 193:40], all enacted June 25, 2021, which together have come to be known as the ‘Divisive Concepts Statute.’” Compl. ¶ 1. The Complaint challenges these statutory provisions under the Due Process Clause of the Fourteenth Amendment as void for vagueness, the due process clause of the New Hampshire Constitution as

void for vagueness, and the First Amendment of the United States Constitution. The complaint also seeks various forms of declaratory relief.

2. Based on the timing of service of the summons and complaint, the earliest deadline for any of the Defendants to answer or otherwise respond to the Complaint is January 7, 2022.

3. One week after the instant action was filed, Andres Mejia and two other plaintiffs filed a separate complaint in *Andres Mejia, et al. v. Frank Edelblut, in his official capacity only as the Commissioner of the New Hampshire Department of Education, et al.*, Case No. 1:21-cv-01077-PB (D.N.H. filed Dec. 20, 2021) (the “Second-Filed Action”), containing one count that the same state statutes at issue in the instant action are unconstitutionally vague in violation of the Fourteenth Amendment right to due process. The deadline for the defendants in the Second-Filed Action to answer or otherwise respond to the complaint is February 18, 2022.

4. Due to the similarities between the instant action and the Second-Filed Action, the Defendants seek an extension up to and including February 18, 2022 to answer or move to dismiss the Complaint in the instant action, which would bring the deadline in both actions into alignment. Good cause exists for the requested extension, including because aligning the two deadlines should enable the Defendants to streamline their response to both complaints and promote the efficient administration of these cases.

5. Counsel for Plaintiffs assents only to the relief sought by this motion.

6. Based on the foregoing, the Defendants respectfully submit that their deadline to answer or otherwise respond to the Complaint should be extended until February 18, 2022.

WHEREFORE, the Defendants respectfully request that this Court:

A. Extend the Defendants’ deadline to answer or otherwise respond to the Complaint until February 18, 2022; and

B. Grant such further relief as this Court deems just and proper.

Respectfully submitted,

Frank Edelblut, in his official capacity as the
Commissioner of the Department of Education, et
al.

By their attorneys,

OFFICE OF THE ATTORNEY GENERAL

Dated: January 7, 2022

/s/ Seth M. Zoracki

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CERTIFICATE OF SERVICE

I hereby certify that on January 7, 2022 I served the foregoing motion by electronically filing it with the United States District Court for the District of New Hampshire using the CM/ECF system. I further certify that on January 7, 2022 a copy of the foregoing motion will be emailed to the plaintiffs' counsel at the following email addresses:

- Peter J. Perroni, Esq. (peter@nolanperroni.com)
- Charles G. Moerdler, Esq. (cmoerdler@stroock.com)
- Faith Gay, Esq. (fgay@selendygay.com)
- David J. Strom, Esq. (dstrom@aft.org)
- Mark Richard, Esq. (mrichard@phillipsrichard.com)

/s/ Seth M. Zoracki

Seth M. Zoracki